IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 20254 of 2007(J)

PETITIONER:

V.SATHYASEELAN,
CHAIRMAN, KERALA STATE CO-OPERATIVE MARKETING FEDERATION, GANDHI NAGAR, COCHI- 682020.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:
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1. **THE REGISTRAR OF CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.**

2. **THE RETURNING OFFICER, KERALA STATE CO-OPERATIVE MARKETING FEDERATION, GANDHI NAGAR, COCHIN- 682020.**

3. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), THIRUVANANTHAPURAM.**

4. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KOLLAM.**

5. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(G), PATHANAMTHITTA.**

6. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), ALAPPUZHA.**

7. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KOTTAYAM.

8. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), IDUKKI.

9. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), ERNAKULAM.

10. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), THRISSUR.

11. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), PALAKKAD.

12. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), MALAPPURAM.

13. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KOZHIKODE.

14. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), WAYANAD.

15. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KANNUR.

16. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KASARAGOD.

17. THE STATE CO-OPERATIVE ELECTION COMMISSION, THIRUVANANTHAPURAM, REPRESENTED BY THE SECRETARY.

18. KERALA STATE CO-OPERATIVE MARKETING FEDERATION, GANDHI NAGAR, COCHIN- 682020, REPRESENTED BY THE MANAGING DIRECTOR.

19. KERALA STATE CO-OPERATIVE MARKETING FEDERATION, GANDHI NAGAR, COCHIN- 682020, REPRESENTED BY THE MANAGING DIRECTOR.

R1, R3 TO R17 BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)

R2 BY SHRI MILLU DANDAPANI, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 20254 OF 2007 J

Dated this the 4th July, 2007

JUDGMENT

Case of the petitioner, in brief, is as follows:

He is the Chairman of the Kerala State Co-Operative Marketing Federation. His complaint is that for the purpose of capturing power in the election to the Board of Directors in the Federation, which is to be held on 8.7.2007, there is an attempt to supersede the Managing Committees which are in Office, without justification. Petitioner is a candidate. The attempt, according to petitioner, is only to depute the Delegates of the Administrators to cast the vote in the election to the Board of Directors of the Federation by bidding fare-well to the concept of democracy from the Eightyeight Societies having elected Committees. There is a reference to the Managing Committee of the Ezhamkulam Co-operative Marketing Society in Pathanamthitta District being superseded after publication of the

election Notification. There is also reference to the attempt to supersede the Managing Committee of Cherthala Taluk Coconut Marketing Co-operative Society which is sought to be challenged by the said Society. It is stated that the petitioner had come to know of the instructions given by the Controlling Officers of all the fourteen Revenue Districts to ensure that the appointment of Administrators in Societies as far as possible may be made wherever Reports under Section 65 or 66 are available, by superseding the Managing Committees of those Societies after publication of Ext.P1 election Notification. It is also stated that there were attempts made to appoint Administrators in five Societies and Administrators were appointed in three. Therefore, according to petitioner, as Chairman of the Apex Federation, he has approached this Court.

2. I heard Shri George Poonthottam, learned counsel appearing for the petitioner and Smt. A. G. Aneetha, learned

Special Government Pleader. The prayer in the Writ Petition are as follows:

> *"i) Issue a writ in the nature of prohibition restraining respondents 2 to 17 from superseding or removing the Managing Committees of the Societies in Ext.P2 voters list without following the due process of law by dispensing the notice.*
>
> *ii) Issue a writ declaring that any form of administrative action resulting in the removal of the elected committees invoking Section 32 or 33 for achieving the political interest of the party in power is a negation of rule of law."*

3. Admittedly, there is no supersession as of now except in respect of the Societies mentioned. The persons aggrieved in a case of supersession would be the Members of the Committees. They are not before me. No doubt, the case of petitioner is that he is the Chairman of the Federation and his

interest is traced to the effect of the supersession on the election to be held on 8.7.2007, in so far as after supersession, the Administrators would get the power to nominate delegates which was lawfully vested in the elected Committee. Learned Special Government Pleader would submit that supsersession is a matter governed by Section 32 of the Kerala Municipality Act. The Section contemplates supersession without notice in situations where it is not reasonably practicable to give notice. Of course, the word "reasonably practicable" has been interpreted by this Court in Selvi v. District Industries Centre (2001 (2) KLJ 429). I would think that this Writ Petition filed at the instance of the Chairman of the Marketing Federation to prevent supersession of the Societies in question, should not be entertained. As already noted, the directly affected party would be the Committees. No supersession has yet taken place. It would be open to the Committees to approach this Court. Of course, the first respondent is duty bound by the provisions of the Act and I am sure that the first respondent will not give rise

to any complaint that supersession is done without notice in circumstances in which notice is necessary and resort will not be made to supersession for achieving any improper purpose.

Subject to the above observation, the Writ Petition is dismissed.

K. M. JOSEPH, JUDGE

kbk.